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# HOUSE BILL No. 1549

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-5-2-2; IC 21-6.1-3-6; IC 21-6.2.

**Synopsis:** School health benefits. Requires the teachers' retirement fund board to establish a school health benefit plan. Provides for funding of the plan through biennial appropriations and school corporation and employee contributions.

**Effective:** July 1, 2003.

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**Oxley, Fry**

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January 16, 2003, read first time and referred to Committee on Education.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1549

A BILL FOR AN ACT to amend the Indiana Code concerning education finance and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 20-5-2-2, AS AMENDED BY P.L.286-2001,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2003]: Sec. 2. In carrying out the school purposes of each  
4 school corporation, its governing body acting on its behalf shall have  
5 the following specific powers:

6 (1) In the name of the school corporation, to sue and be sued and  
7 to enter into contracts in matters permitted by applicable law.

8 (2) To take charge of, manage, and conduct the educational affairs  
9 of the school corporation and to establish, locate, and provide the  
10 necessary schools, school libraries, other libraries where  
11 permitted by law, other buildings, facilities, property, and  
12 equipment therefor.

13 (2.5) To appropriate from the general fund an amount, not to  
14 exceed the greater of three thousand dollars (\$3,000) per budget  
15 year or one dollar (\$1) per pupil, not to exceed twelve thousand  
16 five hundred dollars (\$12,500), based upon the school  
17 corporation's previous year's average daily membership (as



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defined in IC 21-3-1.6-1.1) for the purpose of promoting the best interests of the school corporation by:

(A) the purchase of meals, decorations, memorabilia, or awards;

(B) provision for expenses incurred in interviewing job applicants; or

(C) developing relations with other governmental units.

(3) To acquire, construct, erect, maintain, hold, and to contract for such construction, erection, or maintenance of such real estate, real estate improvements, or any interest in either, as the governing body deems necessary for school purposes, including but not limited to buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing of school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchases money contracts providing for a retention of a security interest by seller until payment is made or by notes where such contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 21-5-10, IC 21-5-11, or IC 21-5-12. To repair, remodel, remove, or demolish any such real estate, real estate improvements, or interest in either, as the governing body deems necessary for school purposes, and to contract therefor. To provide for energy conservation measures through utility energy efficiency programs or under a guaranteed energy savings contract as described in IC 36-1-12.5.

(4) To acquire such personal property or any interest therein as the governing body deems necessary for school purposes, including but not limited to buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by outright purchase for cash, or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where such contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish such personal property. All purchases and contracts delineated under the powers

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given under subdivision (3) and this subdivision shall be subject solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of agencies of the state as provided in section 3 of this chapter.

(5) To sell or exchange any of such real or personal property or interest therein, which in the opinion of the governing body is not necessary for school purposes, in accordance with IC 20-5-5, to demolish or otherwise dispose of such property if, in the opinion of the governing body, it is not necessary for school purposes and is worthless, and to pay the expenses for such demolition or disposition.

(6) To lease any school property for a rental which the governing body deems reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children aged five (5) through fourteen (14) years that operates before or after the school day, or both, and during periods when school is not in session;

if the property is not needed for school purposes. Under this subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school age child care program. However, if the property subject to a long term lease is being paid for from money in the school corporation's debt service fund, then all proceeds from the long term lease shall be deposited in that school corporation's debt service fund so long as the property has not been paid for. The governing body may, at its option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(7) To employ, contract for, and discharge superintendents, supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-6.1-3), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including but not limited to the making of schedules, the keeping and

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1 analyzing of grades and other student data, the keeping and  
2 preparing of warrants, payroll, and similar data where approved  
3 by the state board of accounts as provided below, and such other  
4 personnel or services, all as the governing body considers  
5 necessary for school purposes. To fix and pay the salaries and  
6 compensation of such persons and such services. To classify such  
7 persons or services and to adopt schedules of salaries or  
8 compensation. To determine the number of such persons or the  
9 amount of services thus employed or contracted for. To determine  
10 the nature and extent of their duties. The compensation, terms of  
11 employment, and discharge of teachers shall, however, be subject  
12 to and governed by the laws relating to employment, contracting,  
13 compensation, and discharge of teachers. The compensation,  
14 terms of employment, and discharge of bus drivers shall be  
15 subject to and shall be governed by any laws relating to  
16 employment, contracting, compensation, and discharge of bus  
17 drivers. The forms and procedures relating to the use of computer  
18 and data processing equipment in handling the financial affairs of  
19 such school corporation shall be submitted to the state board of  
20 accounts for approval to the end that such services shall be used  
21 by the school corporation when the governing body determines  
22 that it is in the best interests of the school corporation while at the  
23 same time providing reasonable accountability for the funds  
24 expended.

25 (8) Notwithstanding the appropriation limitation in subdivision  
26 (2.5), when the governing body by resolution deems a trip by an  
27 employee of the school corporation or by a member of the  
28 governing body to be in the interest of the school corporation,  
29 including but not limited to attending meetings, conferences, or  
30 examining equipment, buildings, and installation in other areas,  
31 to permit such employee to be absent in connection with such trip  
32 without any loss in pay and to refund to such employee or to such  
33 member his reasonable hotel and board bills and necessary  
34 transportation expenses. To pay teaching personnel for time spent  
35 in sponsoring and working with school related trips or activities.  
36 (9) To transport children to and from school, when in the opinion  
37 of the governing body such transportation is necessary, including  
38 but not limited to considerations for the safety of such children  
39 and without regard to the distance they live from the school, such  
40 transportation to be otherwise in accordance with the laws  
41 applicable thereto.

42 (10) To provide a lunch program for a part or all of the students

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attending the schools of the school corporation, including but not limited to the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate such program, and the purchase of any material and supplies therefor, charging students for the operational costs of such lunch program, fixing the price per meal or per food item. To operate such lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in any surplus commodity or lunch aid program.

(11) To purchase textbooks, to furnish them without cost or to rent them to students, to participate in any textbook aid program, all in accordance with applicable law.

(12) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(13) To levy taxes, to make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with the laws applicable thereto. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-5-4.

(14) To purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or its employees in connection with motor vehicles or property and for any additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance or to establish and maintain a program of self-insurance protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from any liability, risk, accident, or loss related to any school property, school contract, school or school related activity, including but not limited to the purchase of insurance or the establishment and maintenance of a self-insurance program protecting such persons against false imprisonment, false arrest, libel, or slander for acts committed in the course of their employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to any property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6;

(B) purchase insurance; **or**

(C) establish and maintain a program of self-insurance; **or**

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**(D) participate in the school health benefit plan as provided in IC 21-6.2;**

to benefit school corporation employees, which may include accident, sickness, health, or dental coverage, provided that any plan of self-insurance shall include an aggregate stop-loss provision.

(15) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state government, the federal government, or from any other source.

(16) To defend any member of the governing body or any employee of the school corporation in any suit arising out of the performance of ~~his~~ **the member's or employee's** duties for or employment with, the school corporation, provided the governing body by resolution determined that such action was taken in good faith. To save any such member or employee harmless from any liability, cost, or damage in connection therewith, including but not limited to the payment of any legal fees, except where such liability, cost, or damage is predicated on or arises out of the bad faith of such member or employee, or is a claim or judgment based on ~~his~~ **the member's or employee's** malfeasance in office or employment.

(17) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures for the government and management of the schools, property, facilities, and activities of the school corporation, its agents, employees, and pupils and for the operation of its governing body, which rules, regulations, and procedures may be designated by any appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(18) To ratify and approve any action taken by any member of the governing body, any officer of the governing body, or by any employee of the school corporation after such action is taken, if such action could have been approved in advance, and in connection therewith to pay any expense or compensation permitted under IC 20-5-1 through IC 20-5-6 or any other law.

(19) To exercise any other power and make any expenditure in carrying out its general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including but not limited to the acquisition of property or the employment or contracting for services, even though such power or

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expenditure shall not be specifically set out herein. The specific powers set out in this section shall not be construed to limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-5-1 through IC 20-5-6 by specific language or by reference to other law.

SECTION 2. IC 21-6.1-3-6, AS AMENDED BY P.L.119-2000, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Each trustee shall give bond as specified periodically by the state board of finance.

(b) The board shall do all of the following:

- (1) Act on each application for benefits.
- (2) Provide the necessary forms for administering the fund.
- (3) Establish records and accounts, which provide the necessary information for an actuary's examination and which are sanctioned by the state board of accounts.
- (4) Maintain individual records for each member of the fund containing:
  - (A) the member's name;
  - (B) date of birth;
  - (C) age at beginning service;
  - (D) service record;
  - (E) address;
  - (F) the member's contributions to the fund;
  - (G) amounts withdrawn;
  - (H) benefits paid; and
  - (I) other items considered necessary.
- (5) Employ or contract with employees, auditors, technical experts, legal counsel, and other service providers as it considers necessary to transact the business of the fund without the approval of any state officer, and fix their compensation.
- (6) Make rules as are required to administer the fund.
- (7) Publish for the members' information a synopsis of the fund's condition.
- (8) Provide for a report at least annually, before June 1, to each member of the value of the amount credited to the member in the annuity savings account in each investment program under IC 5-10.2-2.
- (9) Provide for the installation in the general office of a complete system of books, accounts (including reserve accounts), and records in order to give effect to all the requirements of this article and to ensure the proper operation of the fund.
- (10) Appoint an actuary.





(11) With the advice of the actuary, adopt actuarial tables and compile data needed for actuarial studies that are necessary for the fund's operation.

(12) Adopt a budget on a calendar year or fiscal year basis that is sufficient, as determined by the board, to perform the board's duties and, as appropriate and reasonable, draw upon fund assets to fund the budget.

(13) Expend money, including income from the fund's investments, for effectuating the fund's purposes.

(14) Establish personnel programs and policies for its employees.

(15) Submit a report of its activities each year to the governor, the pension management oversight commission, and the budget committee before November 1 of each year. The report under this subdivision must set forth a complete operating and financial statement covering its operations during the most recent fiscal year, including information on the following:

(A) Investment performance.

(B) Investment and administrative costs as a percentage of assets under management.

(C) Investment asset allocation strategy.

(D) Member services.

(E) Member communications.

(16) Establish a code of ethics or decide to be under the jurisdiction and rules adopted by the state ethics commission.

**(17) Perform the duties required under IC 21-6.2 concerning school health benefits.**

SECTION 3. IC 21-6.2 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

## **ARTICLE 6.2. SCHOOL HEALTH BENEFITS**

### **Chapter 1. Definitions**

**Sec. 1. The definitions in this chapter apply throughout this article.**

**Sec. 2. "Accident and sickness insurance" has the meaning set forth in IC 27-8-5-1.**

**Sec. 3. "Board" refers to the teachers' retirement fund board appointed under IC 21-6.1-3.**

**Sec. 4. "Employee" means an individual employed part time or full time by a school corporation.**

**Sec. 5. "Fund" refers to the school health benefit plan fund established by IC 21-6.2-3-1.**

**Sec. 6. "Health care services" has the meaning set forth in**



1 IC 27-8-11-1.

2 Sec. 7. "Health maintenance organization" has the meaning set  
3 forth in IC 27-13-1-19.

4 Sec. 8. "Plan" refers to a school health benefit plan established  
5 by the board under IC 21-6.2-2.

6 Sec. 9. "Retired employee" means an individual who:

7 (1) receives a monthly benefit from the teachers' retirement  
8 fund under IC 21-6.1; and

9 (2) at the time of retirement was employed part time or full  
10 time by a school corporation.

11 Sec. 10. "School corporation" has the meaning set forth in  
12 IC 21-6.1-1-7.

### 13 Chapter 2. School Health Benefit Plan

14 Sec. 1. (a) The board shall establish the school health benefit  
15 plan to provide coverage for health care services provided to  
16 employees and retired employees.

17 (b) The board shall determine the benefits to be provided under  
18 the plan to provide a reasonable relationship between the hospital,  
19 surgical, and medical benefits included in the plan and the expected  
20 hospital, surgical, and medical expenses that will be incurred by:

21 (1) employees;

22 (2) retired employees; and

23 (3) spouses and dependent children of employees and retired  
24 employees;

25 covered under the plan.

26 (c) The board shall include reasonable cost controls in the plan,  
27 including deductibles, coinsurance, and other methods to prevent  
28 unnecessary use of health care services covered under the plan and  
29 to assure stability of the plan.

30 (d) The plan may provide coverage for:

31 (1) group hospitalization, surgical, and medical insurance  
32 against the financial costs of hospitalization and surgical and  
33 medical treatment; and

34 (2) prescription drugs, prosthetic devices, and other benefits:

35 (A) considered appropriate by the board;

36 (B) within the limits of available funds; and

37 (C) not excluded under subsection (e).

38 (e) The plan may not provide coverage for:

39 (1) expenses incurred before the effective date of coverage of  
40 an individual;

41 (2) hearing aids and examinations for the prescription or  
42 fitting of a hearing aid;

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(3) cosmetic surgery or treatment, except to the extent necessary for correction of damage:

(A) caused by an accidental injury while covered under the plan; or

(B) directly resulting from a disease, the treatment for which is covered under the plan;

(4) health care services received in a hospital owned or operated by the United States government for which no charge is made;

(5) health care services received for injury or sickness caused by war or an act of war:

(A) declared or undeclared; and

(B) occurring after the effective date of the plan;

(6) expenses for which the individual is not required to make payment;

(7) expenses to the extent of benefits provided under an employer group plan other than the plan; and

(8) other expenses excluded by the board.

Sec. 2. (a) The plan may provide coverage through the following:

(1) A self-insurance plan.

(2) A group contract with a health maintenance organization.

(3) A group policy of accident and sickness insurance.

(b) The board may execute a contract to provide for administration of benefits under a self-insurance plan. A contract entered into under this subsection must be entered into with an entity granted a certificate of authority under IC 27 to transact group health insurance business in Indiana.

(c) An accident and sickness insurer, a health maintenance organization, and an entity with which a contract is entered into under this section may acquire reinsurance or stop loss coverage on the coverage provided or administered by the accident and sickness insurer, health maintenance organization, or entity.

Sec. 3. The board may engage actuarial, administrative, legal, and other services determined necessary to transact the business of the plan. Compensation and expenses for services under this section must be approved by the board.

Sec. 4. An employee or retired employee covered under the plan must receive:

(1) evidence of coverage;

(2) an explanation of benefits and exclusions;

(3) a description of costs for which the employee or retired

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employee is responsible;

(4) the manner in which health care services are to be obtained; and

(5) a toll free telephone number through which the employee or retired employee may obtain information concerning coverage;

under the plan.

**Sec. 5.** The plan must provide for adequate written notice to an individual covered under the plan of a denial of coverage. The written notice must set forth the specific reason for the denial and the process for appeal of the denial.

**Sec. 6.** The board shall adopt rules under IC 4-22-2 to implement this article.

**Sec. 7.** Board members are not liable for punitive damages for acts arising out of the good faith performance of the duties of the board members under this article.

### **Chapter 3. School Health Benefit Plan Fund**

**Sec. 1. (a)** The school health benefit plan fund is established to provide for payment for coverage under the plan established under IC 21-6.2-2. The fund shall be administered by the board or a custodian appointed by the board.

**(b)** The expenses of administering the fund shall be paid from money in the fund.

**(c)** The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

**(d)** Money in the fund is annually appropriated to the board for purposes of this article.

**(e)** Money in the fund at the end of a state fiscal year does not revert to the state general fund.

**Sec. 2.** The fund consists of money:

(1) appropriated under section 4 of this chapter; and

(2) contributed by participating school corporations, employees, and retired employees, as provided in this article.

**Sec. 3.** The cost of the plan established under IC 21-6.2-2 must be funded:

(1) in full or in part through monthly premiums per employee and retired employee participating in the plan paid from the same source of funds as the funds used for payment of:

(A) salaries of employees; and

(B) retirement benefits under IC 21-6.1 for retired employees; and

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(2) in part from other funds.

**Sec. 4.** Not later than the January 1 preceding the first regular session of each term of the general assembly, the board shall certify to the governor and to the general assembly the amount necessary to fund coverage for benefits provided under the plan for the following biennium for employees and retired employees as a monthly premium per employee and retired employee per month. The general assembly shall biennially:

(1) set the premium rate; and

(2) make an appropriation to the fund of an amount determined by the general assembly to be necessary in addition to the premium under subdivision (1) to fund the total cost of the plan; for the following biennium.

**Sec. 5.** In a fiscal year during which the:

(1) monthly premium set; plus

(2) appropriation made;

under section 4 of this chapter is less than the cost of the coverage, the difference between the premium plus appropriation amount and the cost shall be charged to each participating employee and retired employee through increased monthly premiums.

**Sec. 6.** Premiums required under this article must be paid to the fund by a participating school corporation for each of the school corporation's covered employees, retired employees, spouses, and dependent children on the first day of each month:

(1) in which coverage under the plan applies; and

(2) after the date specified in subdivision (1).

**Sec. 7. (a)** A school corporation that employs an employee shall determine the part of the premium set under section 4 of this chapter that will be paid by the employee and the part that will be paid by the school corporation.

**(b)** A retired employee covered under the plan shall pay the total premium set under section 4 of this chapter.

#### **Chapter 4. Participation**

**Sec. 1. (a)** A school corporation may elect, during periods specified by the board, to provide coverage for health care services for employees and retired employees of the school corporation under the plan.

**(b)** An election under subsection (a) is irrevocable.

**Sec. 2.** An employee and a retired employee of a school corporation that makes an election under section 1 of this chapter is eligible to participate in coverage provided under the plan as



1 follows:

2 (1) The employee agrees to have deducted from the  
3 employee's compensation the employee's part of the premium  
4 set under IC 21-6.2-3-4.

5 (2) The retired employee:

6 (A) agrees to have withheld from the monthly retirement  
7 payment under IC 21-6.1 an amount equal to the total  
8 premium set under IC 21-6.2-3-4; and

9 (B) is not eligible for coverage under the federal Medicare  
10 program (42 U.S.C. 1395 et seq.).

11 Sec. 3. (a) The board shall provide for:

12 (1) coverage of the spouse and dependent child of an employee  
13 or a retired employee that:

14 (A) participates in coverage; and

15 (B) requests coverage for the spouse and dependent child;  
16 under the plan; and

17 (2) continuation of coverage of the spouse and dependent of a  
18 deceased employee or retired employee described in  
19 subdivision (1).

20 (b) The full cost of coverage provided under subsection (a) must  
21 be paid by the spouse and dependent child of the employee or  
22 retired employee.

23 Sec. 4. A participating school corporation shall submit a  
24 monthly report to the board of the type of coverage and the  
25 premium amount for each participating employee and retired  
26 employee of the school corporation in a format determined by the  
27 board.

28 Chapter 5. School Health Benefit Plan Legislative Advisory  
29 Committee

30 Sec. 1. As used in this section, "committee" refers to the school  
31 health benefit plan legislative advisory committee established by  
32 section 2 of this chapter.

33 Sec. 2. The school health benefit plan legislative advisory  
34 committee is established. The committee consists of the following:

35 (1) Two (2) members of the house of representatives who are  
36 members of different political parties, appointed by the  
37 speaker of the house of representatives.

38 (2) Two (2) members of the senate who are members of  
39 different political parties, appointed by the president pro  
40 tempore of the senate.

41 Sec. 3. The committee shall advise the board on matters  
42 concerning the plan, including cost containment and

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- 1     **appropriations.**  
2         **Sec. 4. The committee shall operate under the policies governing**  
3     **study committees adopted by the legislative council.**

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